

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Final Office Action mailed on October 8, 2008, and the references cited therewith.

Claims 1, 3, 16, 18, 21, and 27 are amended, no claims are canceled or added; as a result, claims 1-6, 8-12, 14, 16-21, and 25-27 are now pending in this application.

§ 112 Rejection of the Claims

Claims 3 and 18 recites the limitation "the duration" in line 1 of each of the claims. There is insufficient antecedent basis for this limitation in the claim. Applicant has amended claims 3 and 18 to clarify the meaning of the term duration and believes the amendments resolve the antecedent basis issues raised by the Examiner. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 112 rejections of claims 3 and 18.

§ 103 Rejection of the Claims

Claims 1-6, 8-12, 14, 16-21, and 25-27 were rejected under 35 USC § 103(a) as being unpatentable over Chishti et al. (U.S. Patent No. 5,975,893). Applicant traverses the rejection as follows.

With respect to independent claim 1, the Examiner cites column 8, lines 50-67 of Chishti which states:

Often, only certain one(s) of the teeth will be repositioned while others of the teeth will provide a base or anchor region for holding the repositioning appliance in place as it applies the resilient repositioning force against the tooth or teeth to be repositioned.

The teeth providing an anchor or base as discussed in Chishti would appear to rely on contact and application of force in order to anchor or provide a base for the other teeth being moved. The principles of physics dictate that an anchoring region that acts to hold an item in place asserts a force, but an equal and opposite

force must also be applied to the region that is doing the holding. These teeth are not isolated in the manner described in claims 1, 16, and 21 and those that depend therefrom.

For example, Applicant's independent claim 1 recites, in part:

moving at least one first tooth with a dental appliance having a number of cavities in which one or more teeth are positioned and wherein the at least one first tooth is positioned in one of the cavities; and

moving at least one second tooth while isolating the at least one first tooth by relieving the at least one first tooth of any applied force from the appliance or the second tooth, wherein relieving the force applied to the at least one first tooth is accomplished by creating space around the tooth and within the one of the cavities of the appliance, such that no undesirable force applying contact is made by the appliance or the second tooth

Applicant's independent claim 16 recites in part:

means for moving a first tooth with a dental appliance having a number of cavities in which one or more teeth are positioned and wherein the at least one first tooth is positioned in one of the cavities; and

means for isolating the first tooth at a rest position by relieving the force applied to it, while moving at least one second tooth, wherein relieving the force applied to the first tooth is accomplished by creating space around the tooth and within the one of the cavities of the appliance, such that no force applying contact is made by the appliance or the second tooth.

Also, Applicant's independent claim 21 recites in part:

means for modeling and isolating the first tooth at a rest position while moving at least one second tooth, the isolating of the first tooth by relieving the tooth of any applied force from the appliance or the at least one second tooth;

wherein relieving the force applied to the first tooth is accomplished by creating space around the tooth and within the one of the cavities of the appliance, such that no force applying contact is made by the appliance or the at least one second tooth; and

a dental appliance fabrication machine coupled to the processor for generating the appliances in accordance with the modeling of isolating the first tooth and moving at least one of the at least one second tooth.

As such, the Chishti reference does not teach or suggest each and every element provided in Applicant's independent claims 1, 16, and 21, as amended.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the

§ 103 rejection of claims 1, 16, and 21, as well as those claims which depend therefrom.



Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0121 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: **MS RCE** Commissioner for Patents, P.O. BOX 1450 Alexandria, VA 22313-1450, on this 7 day of February 2009.

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